

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

KATHLEEN HAMILTON, individually,	:	
and as Administrator and Personal	:	
Representative of the Estate of	:	
ROBERT HAMILTON, deceased	:	
	:	
Plaintiff,	:	
v.	:	Case No. 2:24-cv-07184-JS-ARL
BOAR'S HEAD PROVISIONS CO., INC.	:	
	:	JOINT PETITION FOR
	:	APPROVAL
	:	OF WRONGFUL DEATH
	:	SETTLEMENT
Defendant.	:	

COMES NOW, Plaintiff KATHLEEN HAMILTON, individually, and as Administrator and Personal Representative of the Estate of ROBERT HAMILTON, deceased, SUZANNE GARDNER as Trustee of the Irrevocable Trust of ROBERT HAMILTON and KATHLEEN HAMILTON, and Defendant Boar's Head Provisions Co., Inc. ("Boar's Head") and respectfully petition this Court to approve the settlement of all claims against Defendant, and any of their associated or related entities, including predecessor and successor entities, their agents, servants, employers, employees, representatives, directors, officers, insurers, and attorneys, that Plaintiff may have arising from the death of ROBERT HAMILTON.

The Parties state as follows:

1. This Court has jurisdiction over this matter.
2. The deceased ROBERT HAMILTON is survived by his wife KATHLEEN HAMILTON.

3. Plaintiff KATHLEEN HAMILTON is the surviving spouse of the deceased ROBERT HAMILTON, and brought this action individually, and as the Administrator and Personal Representative of the Estate of ROBERT HAMILTON. SUZANNE GARDNER is the Trustee of the Irrevocable Trust of ROBERT HAMILTON and KATHLEEN HAMILTON which is designated to receive the Estate's portion of the settlement.

4. This case arises out of an allegation of food-poisoning, specifically *Listeria*, from Defendant's food product, which Plaintiff alleges caused ROBERT HAMILTON, who consumed the food product, to become ill and later die.

5. On March 4, 2025, Plaintiff and Defendant, by and through their respective counsel, engaged in negotiations during a lengthy mediation that was presided over by an experienced food-poisoning mediator—Philip Pfaffly, and the parties ultimately reached a global settlement of all claims in the amount of Four Million Dollars (\$4,000,000), subject to an agreed upon release and approval of this Court.

6. Plaintiff and Defendant agree that the settlement amount of \$4,000,000 with an allocation of 75% of that amount toward Plaintiff KATHLEEN HAMILTON's individual claim and 25% to the Estate of ROBERT HAMILTON and therefore ultimately to the Irrevocable Trust of ROBERT HAMILTON and KATHLEEN HAMILTON is a fair and just amount for settlement of all potential claims against Defendant, subject to a release agreed to by all parties and court approval of the claim.

7. Plaintiff KATHLEEN HAMILTON, individually, and as the Administrator and Personal Representative of the Estate of ROBERT HAMILTON and SUZANNE GARDNER as Trustee of the Irrevocable Trust of ROBERT HAMILTON and KATHLEEN HAMILTON have agreed to distribute all proceeds, net of attorneys' fees and litigation expenses, as set forth in Paragraph

8, below, and the terms of the distribution are set forth in the attached proposed Consent Order, which the parties respectfully request be entered upon the approval of this Petition.

8. The settlement proceeds shall be distributed as follows:

a. Total Attorneys' Fees (reduced to 25%):	\$1,000,000.00
i) Marler and Clark, Inc., P.S. (MC):	\$750,000.00
ii) Heisman Nunes & Hull LLP (HNH):	\$250,000.00
b. MC past litigation expenses:	\$11,866.91
c. HNH past litigation expenses:	\$605.00
d. Reimbursement for Medical Expenses	\$15,394.08
e. Net Amount to KATHLEEN HAMILTON, individually, and as the Administrator and as Personal Representative of the Estate of ROBERT HAMILTON and SUZANNE GARDNER as Trustee of the Irrevocable Trust of ROBERT HAMILTON and KATHLEEN HAMILTON	\$2,972,134.01

9. Pursuant to the settlement agreement, (a) Plaintiff KATHLEEN HAMILTON, individually, and as the Administrator and Personal Representative of the Estate of ROBERT HAMILTON affirms that she will assume full responsibility for any valid applicable lien, including private insurance, Medicaid, Medicare, or other valid lien, should any exist, and (b) also agree to indemnify and hold harmless Defendant and any of its associated or related entities, including predecessor and successor entities, their agents, servants, employers, employees, representatives, directors, officers, insurers, and attorneys of the foregoing entities of the foregoing entities from any such claims or liens of any person, entity, or institution claiming to be in any way entitled to damages or compensation relating to the death of ROBERT HAMILTON.

10. Fully comprehending these matters, Plaintiff and Defendant request this Court to approve the settlement reached among the parties, with the distribution of the proceeds to be made as set forth above. A proposed order, signed by counsel for Plaintiff and Defendant, is attached. Plaintiff and Defendant agree and understand that the Court's approval of this compromise settlement constitutes a full and final adjudication of the action on its merits between the parties.

WHEREFORE, for all the reasons referenced in papers submitted in support of this application, Plaintiff and Defendant respectfully petition this Court to approve the proposed settlement and enter an Order directing payment and disbursement of the agreed upon sum as stated above and dismissing this case with prejudice against Defendant.

SIGNED on the ____ day of March, 2025.

Respectfully submitted,

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